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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,952	02/27/2002	Dustin Kirkland	AUS920020019US1	5349
35525	7590	08/10/2004	EXAMINER	
IBM CORP (YA)			NGUYEN, CINDY	
C/O YEE & ASSOCIATES PC				
P.O. BOX 802333			ART UNIT	
DALLAS, TX 75380			PAPER NUMBER	
			2171	

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/087,952	Applicant(s) KIRKLAND, DUSTIN	
	Examiner Cindy Nguyen	Art Unit 2171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/27/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to application filed on 02/27/02 in which claims 1-43 are presented for examination.

Information Disclosure Statement

The information disclosure statement filed on 03/27/02 is in compliance with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Because it has been placed in the application file, and the information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim "parameters similar to parameters" is not clear to Examiner, are they similar to parameters themselves or similar to other parameters?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatakeyama (U.S. 6542468) in view of Ording (U.S. 2001/0055017).

Regarding claims 1, 25 and 42, Hatakeyama discloses: a method, a computer program product and an apparatus for generating an estimate of an amount of time required to complete a content request for content to be transmitted over a network, comprising: receiving a first estimate of an amount of time to retrieve or prepare requested content in a content source device (col. 8, lines 60 to col. 9, lines 4 and col. 9, lines 47-54, Hatakeyama);

generating a second estimate of an amount of time to receive the requested content over a communication link from the content source device (col. 5, lines 15-36, Hatakeyama); However, Hatakeyama didn't disclose: generating a third estimate of a total amount of time to complete the content request based on the first and second time estimates; generating a graphical representation of the third estimate; and outputting the graphical representation on a display device. On the other hand, Ording discloses: generating a third estimate of a total amount of time to complete the content request based on the first and second time estimates (page 3, paragraph 0022, Ording); generating a graphical representation of the third estimate (fig. 2, Ording); and outputting the graphical representation on a display device (fig. 2, Ording). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the steps for estimate of a total amount of time to complete the content request and display the output in the graphical representation device in the system of Hatakeyama as taught by Ording. The motivation being to enable the system provides updates on the progress of the task the percentage which is completed and/or estimated time remaining in the progress bar (page 3, paragraph 0022, Ording).

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Regarding claims 19, 36 and 43, all the limitations of this claim have been noted in the rejection of claim 1, 25 and 42. It is therefore rejected as set forth above. In addition, Hatakeyama/Ording discloses: a method, a computer program product and an apparatus for generating an estimate of an amount of time required to retrieve or prepare requested content, comprising: receiving a request for content, the request including one or more parameters (col. 9, lines 10-30, Hatakeyama); identifying previously completed request information regarding a previously completed request based on the one or more parameters, the information including a time required to retrieve or prepare the content of the previously completed request (col. 10, lines 50-64, Hatakeyama).

Regarding claims 2, 20 and 37, all the limitations of these claims have been noted in the rejection of claims 1, 19 and 36 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the first estimate is generated using a table lookup of previously handled content requests (col. 10, lines 51 to col. 11, lines 23, Hatakeyama).

Regarding claim 3, all the limitations of this claim have been noted in the rejection of claim 2. In addition, Hatakeyama/Ording discloses: wherein the table lookup includes finding one or more entries in a table that have parameters similar to parameters included in the content request (col. 15, lines 45-65, Hatakeyama).

Regarding claims 4, 21 and 38, all the limitations of these claims have been noted in the rejection of claims 2, 19 and 36. In addition, Hatakeyama/Ording discloses: wherein the table lookup includes identifying an estimate of a minimum, maximum and average amount of time to retrieve or prepare the requested content (col. 11, lines 60 to col. 12, lines 30, Hatakeyama).

Regarding claim 5, all the limitations of this claim have been noted in the rejection of claim 1. In addition, Hatakeyama/Ording discloses: wherein the first estimate is generated based on information identifying the processes used to retrieve or prepare the requested content (col. 10, lines 51 -64, Hatakeyama).

Regarding claim 6, all the limitations of this claim have been noted in the rejection of claim 5. In addition, Hatakeyama/Ording discloses: wherein the information includes at least one of an identifier of a program to be used to retrieve or prepare the requested content (col. 11, lines 5-24, Hatakeyama), a typical execution time for the program (col. 9, lines 47-54, Hatakeyama), a number of lines of code in the program (col. 9, lines 47-54, Hatakeyama), and a number of lines of code per second handled by a processor of the content source device (page 3, paragraphs 0026-0027, Ording).

Regarding claims 7 and 26, all the limitations of these claims have been noted in the rejection of claims 1 and 25 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the second estimate is generated based on an amount of content to be transmitted and a transmission rate (page 3, paragraph 0022, Ording).

Regarding claims 8 and 27, all the limitations of this claim have been noted in the rejection of claims 1 and 25 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the third estimate includes a minimum estimated time of completion, a maximum estimated time of completion and an average time of completion for the content request (col. 11, lines 60 to col. 12, lines 30, Hatakeyama).

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Regarding claims 9 and 28, all the limitations of these claims have been noted in the rejection of claims 8 and 27 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the graphical representation includes an indicator for each of the minimum estimated time of completion, maximum estimated time of completion and average time of completion for the content request (page 3, paragraph 0022, Ording).

Regarding claims 10 and 29, all the limitations of these claims have been noted in the rejection of claims 1 and 25 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the graphical representation includes associated text, and wherein the associated text is changed from a first text to a second text when the requested content begins to be received from the content source device (items time remaining to be copies fig. 2, Ording).

Regarding claims 11 and 30, all the limitations of this claim have been noted in the rejection of claims 1 and 25 above, respectively. In addition, Hatakeyama/Ording discloses: further comprising: updating the graphical representation based on the occurrence of an event (page 3, paragraph 0025, Ording).

Regarding claims 12 and 31, all the limitations of these claims have been noted in the rejection of claims 11 and 30 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the event is an increment of a predetermined amount of time of a system clock (page 3, paragraph 0025, Ording).

Regarding claims 13 and 32, all the limitations of these claims have been noted in the rejection of claims 11 and 30 above, respectively. In addition, Hatakeyama/Ording discloses:

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wherein the event is receipt of a portion of the requested content (page 3, paragraph 0022, Ording).

Regarding claims 14 and 33, all the limitations of these claims have been noted in the rejection of claims 1 and 25 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the graphical representation represents the third estimate as a combination of the first estimate and the second estimate, wherein a representation of the first estimate in the graphical representation is different from a representation of the second estimate in the graphical representation (225, fig. 2A, Ording).

Regarding claims 15 and 34, all the limitations of these claims have been noted in the rejection of claims 14 and 33 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the first estimate is represented in a different color than the second estimate (page 3, paragraph 0021, Ording).

Regarding claims 16 and 35, all the limitations of this claim have been noted in the rejection of claims 1 and 25 above, respectively. In addition, Hatakeyama/Ording discloses: wherein the graphical representation is a progress bar (page 3, paragraph 0021, Ording).

Regarding claims 17, all the limitations of this claim have been noted in the rejection of claim 1. In addition, Hatakeyama/Ording discloses: wherein the method is implemented by a web browser application on a computing device (col. 8, lines 13-30, Hatakeyama).

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Regarding claims 18, all the limitations of this claim have been noted in the rejection of claim 1. In addition, Hatakeyama/Ording discloses: wherein the method is implemented by a plugin application to a web browser application on a computing device (col. 22, lines 24-36, Hatakeyama).

Regarding claims 22 and 39, all the limitations of this claim have been noted in the rejection of claims 19 and 36 above, respectively. In addition, Hatakeyama/Ording discloses: wherein generating a time estimate of an amount of time required to retrieve or prepare the requested content includes generating the time estimate based on a time to retrieve or prepare content identified in the previously completed request information, a system load at the time of the previously completed request, and a current system load (col. 11, lines 48 to col. 12, lines 9, Hatakeyama).

Regarding claims 23 and 40, all the limitations of this claim have been noted in the rejection of claims 20 and 37 above, respectively. In addition, Hatakeyama/Ording discloses: further comprising: storing a new entry in the previously handled content request table for the request for content (col. 11, lines 13-15, Hatakeyama).

Regarding claims 24 and 41, all the limitations of this claim have been noted in the rejection of claims 19 and 36 above, respectively. In addition, Hatakeyama/Ording discloses: further comprising: transmitting the time estimate to a client device (col. 9, lines 10-23, Hatakeyama).

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Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 703-305-4698. The examiner can normally be reached on M-F: 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CN

Cindy Nguyen

August 3, 2004

Wm 4
WAYNE AMSBURY
PRIMARY PATENT EXAMINER